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## Disclosure under the Foreign Agents Registration Act of 1938, as Amended

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port is one type of debt which is necessary to the veteran's existence. A priority system should be established to allow for payment of even past claims for necessities supplied to the veteran on credit, so long as current support is not jeopardized. A need exists for clarification of the rights of this type of creditor.

*Porter v. Aetna Cas. & Sur. Co.* clarifies only one of the two problems of exemption law, *i.e.*, when veterans' benefits remain protected by section 3101(a). Still to be resolved is the question of which types of claims may be satisfied from the protected payments.

PAUL Y. SHAPIRO

## *Disclosure under the Foreign Agents Registration Act of 1938, as Amended*<sup>1</sup>

Recognizing the expanding international involvement of the United States, foreign governments have attempted to influence American domestic and foreign policies. Foreign interests vary from promoting the economic welfare of large industrial nations to seeking aid for newly developing countries. United States' citizens, acting as agents for these foreign principals, may aid these causes by lobbying bills through Congress, for example, or by projecting a desirable foreign interest image to the American public through mass media. Commonly, attempts to influence the foreign policies and national interests of the United States are conducted outside regular diplomatic channels. Thus, foreign governments' agents peddle their influence for undisclosed sponsors.

Only 404 registration statements of these agents of foreign principals currently are filed under the Foreign Agents Registration Act.<sup>2</sup> It was not until December 1962 that the Justice Department forced the Communist Party of the United States to register as an agent of a foreign principal.<sup>3</sup> The Senate Foreign Relations Committee in July 1962 released a study reflecting numerous undetected violations of the Act, evident from the Justice Department's own files.<sup>4</sup> This increase of undetected activity prompted the Senate to authorize the Senate Foreign Relations Committee:

To conduct a full and complete study of all nondiplomatic activities of representatives of foreign governments, and the extent to which such representatives attempt to influence the policies of the United States and affect the national interest.<sup>5</sup>

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the supplier of necessities would result in recovery from exempt funds. See *In re Murphy's Committee*, 227 App. Div. 839, 237 N.Y.S.2d 448-49 (Sup. Ct. 1929); *In the Matter of Harp*, 25 Misc. 2d 620, 625, 208 N.Y.S.2d 374, 379 (Surr. Ct. 1960); *Chojnacki's Estate No. 1*, 13 Pa. D. & C.2d 152, 157 (Orphans' Ct. 1958).

This Committee is presently examining the effectiveness of and need for amending the Foreign Agents Registration Act.

The purposes of this article are to examine the etiology of the disclosure provisions of the Foreign Agents Registration Act; to analyze the first amendment questions raised by the disclosure provisions; to compare the Act's disclosure provisions with analogous federal disclosure acts; and to examine the effectiveness of the disclosure provisions, as reflected in the recent pilot study and in a study presented to Congress in 1941.<sup>6</sup>

### DISCLOSURE PROVISIONS

In 1938, the House Un-American Activities Committee probed extensively the post-depression era's fascist and communist propaganda activity. The committee concluded that these activities struck at the fundamental principles underlying our democratic form of government. To counter this subversive attack, Congress passed the Foreign Agents Registration Act in 1938. The Act was designed to focus the "spotlight of pitiless publicity" on American agents who carried on propaganda activities for foreign governments.<sup>7</sup> In 1942, the Act was amended to include a preface which broadened its purpose.<sup>8</sup>

The operational bases of the Act are the two disclosure provisions requiring agents of foreign principals to register and requiring that all propaganda be labeled.

#### *Section (2) — Registration Statement*

Section (2) (a) of the Act prohibits anyone from acting as an agent<sup>9</sup>

1. 52 Stat. 631 (1938), 22 U.S.C. §§ 611-21 (1958), as amended, 22 U.S.C. §§ 611 & 613 (Supp. III, 1958).

2. STAFF OF SENATE COMM. ON FOREIGN RELATIONS, 87th CONG., 2d SESS., NONDIPLOMATIC ACTIVITIES OF REPRESENTATIVES OF FOREIGN GOVERNMENTS 13 (Comm. Print 1962).

3. New York Times, (west. ed.), Dec. 18, 1962, p. 1, col. 1.

4. STAFF OF SENATE COMM. ON FOREIGN RELATIONS, 87th CONG., 2d SESS. NONDIPLOMATIC ACTIVITIES OF REPRESENTATIVES OF FOREIGN GOVERNMENTS (Comm. Print 1962).

5. S. Res. 362, 87th Cong., 2d Sess., 112 Cong. Rec. 3001 (1962).

6. 87 Cong. Rec. app. 4417 (1941) (remarks of Congressman Voorhis). The remarks consist of a report prepared by the Institute of Living Law on the administration of the Foreign Agents Registration Act. See generally Institute of Living Law, *Combating Totalitarian Propaganda: The Method of Exposure*, 10 U. CHI. L. REV. 107 (1943).

7. H.R. Rep. No. 1381, 75th Cong., 1st Sess. 1, 2 (1937).

8. 56 Stat. 248 (1942), as amended, 22 U.S.C. § 611 (1958).

9. 52 Stat. 632 (1948), as amended, 22 U.S.C. § 612 (1958). "Agent" of a foreign principal under § (1) (c) includes: (1) any person who acts, agrees to act, or is or holds himself out to be a public-relations counsel, publicity agent, information service employee, servant, agent, representative or attorney for a foreign principal; (2) any person who collects or reports information for a foreign principal; who receives or disburses anything of value to or for a foreign principal, or who acts at the order, request, or under the direction of a foreign principal.

"Person" as defined under § (1) (a) "includes an individual, partnership, association, corporation, organization, or any other combination of individuals . . ."

of a foreign principal<sup>10</sup> until he files a true and complete registration statement with the Attorney General of the United States.

Information required to be filed with the Attorney General includes, *inter alia*:

(1) The name and address of the agent and a statement of all agreements relating to organization and control of the agent;

(2) A comprehensive statement of the registrant's business, a list of his employees and their duties, and a statement of the foreign principal's business and control thereof;

(3) Copies of all agreements, written or oral, relating to the principal-agent relationship and a comprehensive statement of the nature and method of performance of each contract;

(4) The nature and amount of contributions received within consecutive sixty-day periods as compensation or for disbursement, and the form, time of payment, and the name of persons from whom each amount was received; and

(5) A statement of that personal activity which requires registration under the Act.

The Justice Department has prescribed four basic registration forms to be used in supplying this information and a number of rules and regulations relating to registration procedures.<sup>11</sup>

Sections (1) and (3) of the Act exempt certain individuals or organizations from its provisions. Section (1)(d) specifically excepts those persons engaged in bona fide journalistic activities from being considered an agent. Under section (3), accredited consular, diplomatic, or other foreign officials and their employees do not have to register if they act solely within the traditional functions of their offices, and if they are not public-relations counsels, publicity agents, or information-service employees. Agents who engage in private, non-political, financial, or mercantile activities, in furtherance of bona fide commerce of the foreign principals, need not register.<sup>12</sup> Section (3)(d) exempts "any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits, or of the fine arts."<sup>13</sup>

10. "Foreign principal" under § (1)(b) includes foreign governments, foreign political parties, or individuals affiliated or controlled by same; any individual, corporation, or combination of individuals outside the United States which are of United States origin or citizenship; and any such organization formed under the laws of or has its principal place of business in a foreign country, and generally any such group in the United States which is dominated by the above groups.

11. 28 C.F.R. § 5.200-08 (Supp. 1962).

12. *Ibid.*

13. 52 Stat. 632(3)(d) (1938), as amended, 22 U.S.C. § 613(d) (1958), as amended, 22 U.S.C. § 613(d) (Supp. III, 1958).

*Section (4) — Filing and Labeling Propaganda*

The labeling provision was added to the Act in 1942. Section (4) requires an agent of a foreign principal, who is required to register, to label any political propaganda which he transmits or causes to be transmitted in interstate or foreign commerce and to file a statement of dissemination with the Attorney General of the United States.<sup>14</sup> Copies of propaganda must be sent to the Librarian of Congress to be available for public inspection and to the Attorney General for his file.<sup>15</sup>

The propaganda must contain a statement relating the name of the agent, that the agent has registered with the Department of Justice, that the distribution is made on behalf of a named foreign principal, that the propaganda has been filed with the Justice Department, and that the filing is no indication of governmental approval of the subject matter.<sup>16</sup>

Filing and labeling are not necessary if the propaganda is not intended or reasonably presumed to go beyond more than one person.<sup>17</sup>

CONSTITUTIONALITY OF THE DISCLOSURE PROVISIONS  
UNDER THE FIRST AMENDMENT

The first amendment provides: "Congress shall make no law . . . abridging the freedom of speech or of the press . . . or the right of the people peaceably to assemble . . ." <sup>18</sup> The Foreign Agents Registration Act requires agents of foreign principals to register and state their business, as well as register prior to issuing labeled political propaganda. The question arises as to whether these compulsory disclosure requirements violate the clear dictates of the first amendment.<sup>19</sup> Possible violations fall into three categories — compulsory registration as a violation of the rights of association of foreign agents;<sup>20</sup> compulsory registration as

14. 56 Stat. 255 (1942), as amended, 22 U.S.C. § 614 (1958).

15. *Ibid.*

16. *Ibid.*

17. *Ibid.*

18. U.S. CONST. amend. I.

19. Although the language of the first amendment is clear and appears to be unequivocal, it has never been considered to be absolute. *Poulos v. New Hampshire*, 345 U.S. 395, 405 (1953); *Whitney v. California*, 274 U.S. 357 (1927); *Gitlow v. New York*, 268 U.S. 652, 666 (1925). See generally Meiklejohn, *The First Amendment is an Absolute* in SUPREME COURT REVIEW 245 (1961).

20. There is little substance to the argument that the registration provisions violate the right of association of agents of foreign principals. The recent cases sustaining right of association against registration requirements involve mandatory disclosure of organization membership lists. *Bates v. City of Little Rock*, 361 U.S. 516 (1960); *NAACP v. Alabama*, 357 U.S. 449 (1958). Section (2) of the Foreign Agents Registration Act only requires the names of actual agents or the names of officers and directors of agents which are organizations. Thus, the disclosure is limited to the necessary individuals involved and this selective disclosure is closely related to the purposes of the Act. *Accord*, Fellman, *Constitutional Rights of Association*, SUP. CT. REV. 74 (1961).

a condition to dissemination of political propaganda as a violation of the rights of free speech and the press; and compulsory labeling as a violation of the right of free speech.<sup>21</sup>

### *Judicial Interpretation*

*Viereck v. United States*<sup>22</sup> is the only case involving the Foreign Agents Registration Act decided by the United States Supreme Court. Although the record indicates that the Act's constitutionality was not in issue, Mr. Justice Black, writing in dissent,<sup>23</sup> raised the question and concluded that the Act was constitutional.<sup>24</sup>

In 1951, the constitutionality of the Act was raised in *United States v. Peace Information Center*.<sup>25</sup> The defendant challenged the constitutionality of the disclosure provisions of the Act as violating his freedom of speech. In disposing of this contention, the court echoed the words of Mr. Justice Black's dissent in the *Viereck* case<sup>26</sup> by stating that the Act did not regulate the expression of ideas or prohibit the making of utterances.<sup>27</sup> The failure to probe the first amendment issue in depth seriously weakens the authority of this decision.

The United States Supreme Court has used two approaches in resolving first amendment questions during the twenty-four years subsequent to the enactment of the Act. The earlier approach was the "clear and present danger" theory.<sup>28</sup> Currently, the Court operates under the "balance-of-interest" theory.<sup>29</sup> To understand the significance and constitutional importance of this latter form of governmental regulation, one must examine both theories as applied to the disclosure provisions.

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21. Only two cases involving the labeling of publications have been decided by the federal courts. In *Talley v. California*, 362 U.S. 60 (1959), the United States Supreme Court literally construed an ordinance, which prohibited the distribution of handbills unless they were labeled, and ruled it unconstitutional as a violation of the right of free speech. A federal district court upheld 18 U.S.C. § 612 (1958) which prohibits the willful publishing or distributing of publications concerning a candidate in the Congress of the United States without disclosing the name of the persons responsible for the publication. The court ruled that the labeling requirement did not violate the defendant's rights of free speech. *United States v. Scott*, 195 F. Supp. 440 (D.N.D. 1961).

22. 318 U.S. 236 (1943).

23. *Id.* at 249.

24. *Id.* at 249-51.

25. 97 F. Supp. 255 (D.D.C. 1951).

26. *Viereck v. United States*, 318 U.S. 236, 249 (1943).

27. *United States v. Peace Information Center*, 97 F. Supp. 255, 262-63 (D.D.C. 1951).

28. *Craig v. Harney*, 331 U.S. 367 (1947); *Herndon v. Lowry*, 301 U.S. 242 (1937); *Whitney v. California*, 274 U.S. 357 (1927); *Schenck v. United States*, 249 U.S. 47 (1919).

29. *Scales v. United States*, 367 U.S. 513 (1961); *Communist Party of the United States v. Subversive Activities Control Bd.*, 367 U.S. 1 (1961); *Konigsberg v. State Bar of Cal.*, 366 U.S. 36 (1961); *Speiser v. Randall*, 357 U.S. 513 (1958).

*Disclosure — Clear and Present Danger Theory*

The clear and present danger theory was first stated in *Schenck v. United States*.<sup>30</sup>

[T]he question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent.<sup>31</sup>

Congress has extensive powers to regulate in the interest of national self-preservation. The United States Supreme Court, recognizing this power and its application to foreign interest groups, recently stated:

Means for effective resistance against foreign incursion — whether in the form of organizations which function, in some technical sense, as 'agents' of a foreign power, or in the form of organizations which . . . make themselves the instruments of a foreign power — may not be denied to the national legislature.<sup>32</sup>

The policy and purpose of the Foreign Agents Registration Act is to "protect the national defense, internal security, and foreign relations of the United States . . ." <sup>33</sup> Congress passed this legislation under its power of self-preservation. The legislative history of the Act compels the same conclusion.<sup>34</sup>

Originally, the Act was intended to facilitate observation of the outright subversive activities of fascist and communist agents of foreign governments. Today, these activities are infinitely more varied and sophisticated, as the preliminary study of the Senate Foreign Relations Committee staff illustrates.<sup>35</sup>

In 1959, for example, an agent of a foreign principal had unsuspecting Congressmen complete a questionnaire on a controversial foreign policy issue and then turned the material over to the foreign government involved.<sup>36</sup> Another case implicated a national magazine's Washington editor, who operated as a public relations agent for a foreign government. The editor wrote an article on his sponsor's country for the magazine and later served as a paid consultant to a congressional committee which was investigating the political climate of the editor's foreign principal.<sup>37</sup> During 1957, a public relations firm produced a color short about a

30. 249 U.S. 47 (1919).

31. *Id.* at 52.

32. *Communist Party of the United States v. Subversive Activities Control Bd.*, 367 U.S. 1, 95-96 (1961).

33. 56 Stat. 248 (1942), 22 U.S.C. § 611 (1958) (preface).

34. H.R. Rep. No. 1381, 85th Cong., 1st Sess. 1 (1937).

35. STAFF OF SENATE COMM. OF FOREIGN RELATIONS, 87th CONG., 2d SESS., NONDIPLOMATIC ACTIVITIES OF REPRESENTATIVES OF FOREIGN GOVERNMENTS (Comm. Print 1962).

36. *Id.* at 4.

37. *Ibid.*

sensitive international issue for its principal. The film was shown throughout this country without carrying the requisite label.<sup>38</sup> These activities do not end with "using" American Congressmen as sounding-boards and influencing the American public's foreign policy attitudes through the mass media. One American firm acted as an agent in sending relief packages to a communist country.<sup>39</sup>

The imminent danger in these activities springs from the veil of secrecy surrounding them. Congressmen cannot ascertain whether an American citizen is lobbying for a foreign agent unless the information is voluntarily given.<sup>40</sup> If these agents can delude politically sophisticated Congressmen,<sup>41</sup> the American public is no less immune to indoctrination through the mass media. The disclosure provisions of the Foreign Agents Registration Act provide a means whereby the United States government can learn of the foreign political propaganda and, if required, present an alternative view for public consideration.<sup>42</sup>

Even though the effect of the Act on the first amendment rights of an agent of a foreign principal may appear negligible, the effect is subject to close judicial scrutiny.<sup>43</sup> The Act contains no provisions for prohibiting or curtailing any activity of an agent. The Act only requires agents engaged in some form of political or propaganda activity to register. Even inherently dangerous activities are not prohibited.<sup>44</sup> This is not contrary to the spirit of the first amendment. Furthermore, persons engaging exclusively in diplomatic, mercantile, religious, educational, and scientific activities, or in the pursuit of the fine arts, are specifically exempted from the operation of the Act.<sup>45</sup>

Where the magnitude of the evil of the activities of agents of foreign principals is so great, and the effect of the regulation on the first amendment rights of the agents is negligible, there should be no serious objec-

38. *Id.* at 5.

39. *Ibid.*

40. Recognizing this danger, Congress enacted the Federal Regulation of Lobbying Act to require lobbyists to provide information to the government concerning their activities. 68 Stat. 839 (1946), 2 U.S.C. §§ 261-70 (1958).

41. A recent example is Michael Struelens, U.S. Chief of the Katanga Information Service. He registered as an agent of the Katanga government upon his arrival to the United States. His friendship with the State Department prompted it to send him to Katanga as a spokesman for the United States. After the United States supported the United Nations attack on Katanga, Struelens became too effective as an agent for the Katanga government. His visa was cancelled. *Time*, Dec. 28, 1962, p. 16.

42. "If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the process of education, the remedy to be applied is more speech, not enforced silence." *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).

43. *Speiser v. Randall*, 357 U.S. 513 (1958); *Schneider v. State*, 308 U.S. 147 (1939).

44. The political propaganda defined in § (1) (j) which must be labeled includes that which promotes racial, religious, or social dissensions in the United States.

45. 52 Stat. 632 (1938), as amended, 22 U.S.C. § 613 (1958), as amended, 22 U.S.C. § 613(d) (Supp. III, 1958).

tion to the argument that the danger is imminent.<sup>46</sup> Congress has the right to exercise reasonable regulation for its own preservation.

*Disclosure — Balance-of-Interest Theory*

In 1961, Justice Harlan, writing the majority opinion in *Konigsberg v. State Bar of Calif.*,<sup>47</sup> described the balance-of-interest theory as applied in disclosure cases:

Whenever . . . these constitutional protections are asserted against the exercise of valid governmental powers a reconciliation must be affected, and that perforce requires an appropriate weighing of the respective interests involved.<sup>48</sup>

In determining what interests are to be considered in the balancing process, the Supreme Court has held that

against the impediments which particular government regulation causes to entire freedom of individual action, there must be weighed the value to the public of the ends which the regulation may achieve.<sup>49</sup>

Determining the value of a regulation to the public requires a keen and sensitive judicial balance. Congress ordinarily determines the public value before any legislation is enacted into law. At times, the Court has not found the legislative determination commanding.<sup>50</sup> At other times, regulations affecting first amendment freedoms come to the Court "encased in the armor wrought by prior legislative deliberation."<sup>51</sup> Lately, the Court has given considerable weight to prior legislative determination, stating:

Where Congress, in seeking to reconcile, competing and urgently demanding values within our social institutions, legislates not to prohibit individuals from organizing for the effectuation of ends found to be menacing to the very existence of those institutions, but only to proscribe the conditions under which such organization is permitted, the legislative determination must be respected.<sup>52</sup>

In current cases, the United States Supreme Court supports the view that the "judicial balance" falls in favor of the Foreign Agents Registration Act. The Court upheld the membership clause of the Smith Act against a challenge that it abridged the freedom of association.<sup>53</sup> The registra-

46. *American Communications Ass'n v. Douds*, 339 U.S. 382, 397 (1950).

47. 366 U.S. 36 (1961).

48. *Id.* at 51.

49. *Communist Party of the United States v. Subversive Activities Control Bd.*, 367 U.S. 1, 91 (1961).

50. *Speiser v. Randall*, 357 U.S. 513 (1958); *Prince v. Mass.*, 321 U.S. 158 (1944); *West Virginia v. Barnette*, 319 U.S. 624 (1943); *Schneider v. State*, 308 U.S. 147 (1939).

51. *Bridges v. California*, 314 U.S. 252, 314 (1941).

52. *Communist Party of the United States v. Subversive Activities Control Bd.*, 367 U.S. 1, 97 (1961).

53. *Scales v. United States*, 367 U.S. 203 (1961).

tion requirement of the Subversive Activities Control Act of 1950 was declared valid in *Communist Party of the United States v. Subversive Activities Bd.*<sup>54</sup> Recently, a federal district court upheld the provisions of 18 United States Code section 612, which requires persons who disseminate campaign literature concerning a candidate in a congressional or presidential election to identify the persons responsible for its dissemination.<sup>55</sup> The opinion in *United States v. Harriss*,<sup>56</sup> in which the validity of the Federal Regulation of Lobbying Act was upheld, strongly suggests a similar construction of the Foreign Agents Registration Act.

The disclosure provisions of the Act do inhibit the unrestricted freedom of individual action. The individual must register with the Attorney General before acting as an agent of a foreign principal,<sup>57</sup> must register before issuing propaganda,<sup>58</sup> and must label all political propaganda he disseminates.<sup>59</sup> But regular diplomatic and non-political functionaries of foreign principals are exempt from the disclosure provisions.<sup>60</sup> Moreover, the provisions do not prohibit the political activities of agents, but assure that their foreign principals' ideas can be advertised on the American market of ideologies. This non-prohibitive aspect of the Act prompted Mr. Justice Black to comment: "Such legislation implements rather than detracts from the prized freedoms guaranteed by the First Amendment."<sup>61</sup>

The Foreign Agents Registration Act is intended to protect the internal and external security of the United States,<sup>62</sup> specifically, by identifying foreign political propaganda and the agents of foreign principals:

[T]hat our people, adequately informed, may be trusted to distinguish between the true and the false . . . and hearers and readers may not be deceived by the belief that the information comes from a disinterested source.<sup>63</sup>

From the information made available by the Act, the federal government can properly evaluate these activities and take action to counteract influences which are inimical to the national interest.

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54. 367 U.S. 1 (1961).

55. *United States v. Scott*, 195 F. Supp. 440 (D.N.D. 1961).

56. 347 U.S. 612 (1953).

57. 52 Stat. 632 (1938), as amended, 22 U.S.C. § 612 (1958).

58. *Ibid.*

59. 53 Stat. 1246 (1942), 22 U.S.C. 614 (1958).

60. 52 Stat. 632 (1938), as amended, 22 U.S.C. § 613 (1958), as amended, 22 U.S.C. § 613(b) (Supp. III, 1958).

61. *Viereck v. United States*, 318 U.S. 236, 249 (1943) (dissenting opinion).

62. 56 Stat. 248 (1942), 22 U.S.C. § 611 (1958) (preface); H.R. Rep. No. 1381, 75th Cong., 1st Sess. 1 (1937).

63. *Viereck v. United States*, 318 U.S. 236, 249 (1943) (dissenting opinion).

## ANALOGOUS FEDERAL DISCLOSURE REGULATIONS

A considerable body of federal disclosure legislation exists which is designed to vitiate foreign influence in the United States. Comparison of the disclosure provisions of the Foreign Agents Registration Act with analogous federal legislation is useful for understanding the scope of disclosure by registration and labeling and in examining the concomitant activities.

*Voorhis Act*

The Voorhis Act<sup>64</sup> requires all organizations, subject to foreign control<sup>65</sup> and engaged in political activities, to register with the Attorney General. Part of the definition of an "agent of a foreign principal" in the Foreign Agents Registration Act includes those organizations "subject to foreign control" described by the Voorhis Act.<sup>66</sup>

In the Voorhis Act, "political activity" is restricted to those activities directed to the control, or overthrow, of the United States Government, state governments, or political subdivisions of either.<sup>67</sup> The Foreign Agents Registration Act confines "political activity" to propaganda efforts by agents for foreign principals.<sup>68</sup> Thus, both acts apply to foreign interest groups affecting national security.

The registration requirements of the Voorhis Act are more comprehensive than the Foreign Agents Registration Act. Information required by the Voorhis Act, not required by the Foreign Agents Registration Act, includes the name of branch organizations, membership qualifications, places and times of meetings, names and addresses of all persons contributing in any manner to the organization, and descriptions of weapons owned by the organization and its branches.<sup>69</sup>

Religious, scientific, and educational organizations or activities are specifically exempted from the disclosure requirements of both acts.<sup>70</sup>

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64. 18 U.S.C. § 2386 (1940).

65. An organization is "subject to foreign control" if a foreign government or political party sets its policies, if the organization is affiliated directly or indirectly with a foreign government or political party, or if the organization solicits or accepts financial aid from a foreign government or political party. 18 U.S.C. § 2386(A) (1958).

66. An "agent of a foreign principal" includes: "any person . . . who solicits, or accepts compensation . . . from a foreign principal . . . who acts at the order, request, or under the direction of a foreign principal." 52 Stat. 631(1)(c)(2) (1938), as amended, 22 U.S.C. § 611(c)(2) (1958).

67. 18 U.S.C. § 2386(A) (1958).

68. 52 Stat. 631 (1938), as amended, 22 U.S.C. § 611 (1958).

69. 18 U.S.C. § 2386(B)(3) (1958).

70. Voorhis Act, 18 U.S.C. § 2386(A) (1958). Foreign Agents Registration Act, 42 Stat. 632 (1938), as amended, 22 U.S.C. § 613(d) (1958).

*Subversive Activities Control Act of 1950*

The Subversive Activities Control Act of 1950 contains three disclosure requirements which are similar to those of the Foreign Agents Registration Act.<sup>71</sup> Organizations subject to the Subversive Activities Control Act of 1950<sup>72</sup> must file registration statements containing the name and address of the organization; names, addresses, duties, and functions of each officer; an accounting of funds received and expended; and the names of all members and their addresses if the group is a communist-action organization.<sup>73</sup>

The Subversive Activities Control Act of 1950 requires that all publications be labeled with a statement showing that the literature is disseminated by a communist organization.<sup>74</sup> All radio and television broadcasts must commence by an announcement that the program is sponsored by a specific communist organization.<sup>75</sup> The Foreign Agents Registration Act contains labeling requirements similar to those of the Subversive Activities Control Act of 1950.<sup>76</sup>

*Federal Regulation of Lobbying Act*

Persons or groups who are paid to influence the passage or defeat of congressional legislation must register under the Federal Regulation of Lobbying Act.<sup>77</sup> They must include in their registration statement their names and the names of their employers; duration of employment; accounts of money received and expended; reasons why money is expended; names of publications in which the registrant caused articles to be published; and the proposed legislation he is to oppose or support.<sup>78</sup>

The nature of the information which must be disclosed under the Lobbying Act is notably similar to that required under the Foreign Agents Registration Act, although less comprehensive. Presumably, a lobbyist who acts on behalf of a foreign government, political party, or agent thereof must also register under the Foreign Agents Registration Act as an agent of a foreign principal.

*Communications Act*

The Communications Act requires that the identity of sponsors of radio broadcasts be made known to the listening public.<sup>79</sup> Similarly, the

71. 64 Stat. 987 (1950), as amended, 50 U.S.C. § 781-94 (1958).

72. 64 Stat. 993 (1950), as amended, 50 U.S.C. § 786 (1958).

73. 64 Stat. 995 (1950), 50 U.S.C. § 787 (1958).

74. 64 Stat. 996 (1950), as amended, 50 U.S.C. § 789(1) (1958).

75. 64 Stat. 996 (1950), as amended, 50 U.S.C. § 789(2) (1958).

76. 56 Stat. 255 (1942), as amended, 22 U.S.C. § 614 (1958).

77. 60 Stat. 839-42 (1946), 2 U.S.C. § 261-70 (1958).

78. 68 Stat. 841 (1946), 2 U.S.C. § 267 (1958).

79. 48 Stat. 1089 (1934), 47 U.S.C. § 317 (1958), as amended, 47 U.S.C. § 317 (Supp. III, 1958).

rules promulgated under the Foreign Agents Registration Act require the identification of the sponsor be given with a television or radio broadcast which presents political propaganda.<sup>80</sup>

Thus, it is evident that there are numerous federal acts containing enforced disclosure provisions. All of these acts are basically alike. However, the Foreign Agents Registration Act requires disclosure of a greater amount of information than the other acts.

#### ENFORCEMENT

The disclosure provisions of the Foreign Agents Registration Act, designed to spotlight the activities of agents of foreign principals, could be effective if enforced. Unfortunately, lack of enforcement has been the key to the Act's failure to counter these propaganda activities in the United States.<sup>81</sup>

Prior to 1942, the Department of State was charged with the responsibility of administering the Act. In 1941, when the Act was administered by the State Department, approximately 300 foreign agents were registered, none of whom were communist leaders.<sup>82</sup> It would not have helped if all foreign agents had registered since the records were kept in chaotic disorder. There was no attempt to use any of the registration material to expose the activities of foreign agents. No full time officer of the State Department was assigned to administer the registration provisions of the Act. The Institute of Living Law analyzed the Act in 1941 and concluded "that the act has been rendered a dead letter, of no practical importance in exposing the propaganda activities it was designed to expose."<sup>83</sup>

In the years subsequent to the 1941 study, enforcement of the Act lessened. By 1957, registrations increased to 307; and by 1962, they reached a high of 404.<sup>84</sup> From the date of enactment in 1938 until 1944, the government filed nineteen prosecutions resulting in eighteen convictions. From 1945 to July 1962 only eleven indictments were filed. And in the history of the Act, not one case has been brought under the labeling requirements.

The lack of legal enforcement of the Act is equalled only by the lack of general administration. No political analysts are now monitoring the dissemination of political propaganda, although the dissemination of po-

80. 28 C.F.R. § 5.402(b) (Supp. 1962).

81. STAFF OF SENATE COMM. OF FOREIGN RELATIONS, 87th CONG., 2d SESS., NONDIPLOMATIC ACTIVITIES OF REPRESENTATIVES FOR FOREIGN GOVERNMENTS 10-13 (Comm. Print 1962).

82. 87 Cong. Rec. app. 4417, 4418 (1941).

83. *Id.* at 4419.

84. Senate Comm. Print, *op. cit. supra* note 81, at 13.